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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/852,498 | 05/10/2001 | Gary D. Jerdee | 71163 | 7129 |

7590

06/18/2004

Mark L. Davis
P.O. Box 9293
Gray, TN 37615-9293

EXAMINER

AFTERGUT, JEFF H

| ART UNIT | PAPER NUMBER |
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1733

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/852,498

Applicant(s)

JERDEE ET AL.

Examiner

Jeff H. Aftergut

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 9-20, 22, 23.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Jeff H. Aftergut
Jeff H. Aftergut
Primary Examiner
Art Unit: 1733

Continuation of 2. NOTE: The proposed claim amendment would require further considerations as to what was excluded from the adhesive composition with the change in the language to "consisting essentially of" and additionally the newly submitted inclusion of a blend of ethylene methyl acrylate copolymer and at least one polymer selected from the group consisting of low density polyethylene, linear low density polyethylene, high density polyethylene, ultra low density polyethylene...etc. Note that the claims as previously presented did not include the blends as part of the composition. Additionally, note that the preamble of claim 15 is somewhat inconsistent with the body of the claim because it only listed the use of ethylene methyl acrylate and ethylene normal butyl acrylate for use in the process and does NOT mention the use of the newly claimed blend, while the body of the claim included the specified blend. Regarding the prior art, applicant is advised that the proposed amendment would require one revisit whether claim 9 and 15 should be rejected over Traux in view of Taft, as the proposed modification in Traux as proposed in the final rejection would have rendered a composition substantially similar in nature to the proposed claimed composition. Additionally, there is no evidence that the tackifier added in Traux would have materially effected the composition in Traux and that it was clearly excluded from the claim as presented.